

Received 10/23/06 MSHA/OSRV

BB Stoneworks, Inc. dba Lyons Sandstone
Brenda Buster
2493 CR 37 E
Lyons, CO 80540

October 23, 2006

Subject RIN 1219-AB51

Mine Safety and Health Administration
Federal Register
Comments on Proposed Rule Change
Proposed Assessment of Civil Penalties

I downloaded this information about 2:00pm today but could not get to it until 6:30 pm. I've read a few of the posted comments and will leave the legal jargon and statistics to those more qualified to employ them. I wish to address you from the heart. After all that is what this is supposed to be about, protecting the health and lives of miners.

First a couple of lines about who and what we are. We quarry sandstone in the foothills of Colorado. It is very labor intensive. We never blast. It ruins the rock. It has been hand quarried since the late 1800's. All the work is done above ground in wide open spaces. It seems impossible to make regulations broad enough and specialized enough to cover under ground coal mining, sand and gravel pits and stone quarries.

I wish to address you from the heart. After all, that is what this is about, protecting the health and lives of miners and quarriers.

I will first address the section regarding the maximum allowable time to report a serious accident to MSHA. It is totally counter productive to insuring the best care of an injured miner and let me tell you why. My husband and I own and operate a red sandstone quarry. It is somewhat seasonal. Our crew ranges from 12 to 40 people throughout the year. This puts our operation, in that 20 to 501 employee group. You start to picture an office staff, receptionist, sales staff, bookkeeper, maybe a human resources person and upper management. Now here is the real picture. You have me, in a heated and cooled construction trailer with a laptop computer and a cell phone that works most of the time if I am within 3 feet of the 30 foot antenna tower and amp booster. Of course some of the time I am out managing the quarry, doing safety inspections, assessing production, shopping for tires or other parts and attending training classes. My husband and business partner can be found repairing and operating equipment and all the other tasks that come with owning your own business. Our situation is unique in that our stone is still hand quarried with wedges, bars and sledgehammers. Needless to say most of our workers are from Mexico, many of which don't speak English.

If a life threatening or fatal accident should ever occur here is what needs to be done

- * The site needs to be secured to prevent anyone else from being hurt.

AB51-COMM-52

- The injured person needs to be given the best care possible to preserve life and comfort.
- First responders need to be contacted and somebody that speaks English needs to stay on the phone for the 15-30 minutes it will take them to arrive at the quarry.
- People need to be dispatched down the mountain and out to the highway to insure that the professionals reach the accident with out delay.
- My workers are brothers, cousins, nephews, uncles and fathers and sons to each other. I need to be sure these close family ties and affections don't result in people making unwise, unsafe decisions.

THE LAST THING I NEED TO BE DOING IS WATCHING THE CLOCK TO MAKE SURE MSHA IS CALLED WITHIN 15 MINUTES.

15 minutes is the blink of an eye in the best of circumstances. All you have to do is ask me where the times goes when I'm getting ready to go to church or out for dinner.

How about 30 minutes after the first responders are on the scene. Even that might be hard if they need cooperation and the use of mining equipment. In our business, we know these workers, I have pictures of their babies in my office. I will keep it together as long as there is work to do and people to comfort.

I don't see how making this a hard and fast rule is in the best interest of quarry workers heath and safety.

THE SECOND ISSUE I WISH TO ADDRESS

This issue boils down to money and ability to pay. Statistics and averages are inadequate to make fair comparisons between companies. On page 53070 Federal Register/ Vol. 71No 174 you list the average revenue per hour of employee production as \$ 145.90. It is late and I am falling asleep and don't have all my data available but I would say my revenue per hour is close to \$40.00. Lumping companies like mine in with companies with 499 employees averaging \$145.9 per hour is grossly unfair. Some mines can invest heavily in equipment and have fewer workers. Others require the human touch, finesse. Frequency of injuries, even those that result in lost time do not always relate to the risk of serious injury.

One last comment. We have only been in business since 1999. In that short time I have seen and heard much about the human factor concerning MSHA inspectors. Some are bears and some are coaches. The bears strike terror in every operator's heart which results in antagonism and self righteousness on both sides. The coach still has the ultimate authority, but teamwork results in compliance not just with the letter but also the spirit of the regulations.

Please take another look at these proposed rule changes. You have a difficult task but I don't believe the middle ground has been found.

*Sincerely,
Brenda Duster*